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Development, LLC, Stewardship Realty,
Vladimir Ozeruga, and E & O Ventures, LLC

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
(PORTLAND)

PALAZZO VINTAGE HOMES, LLC,

Plaintiff,

v.

URBAN HOUSING DEVELOPMENT,
LLC, an Oregon company, STEWARDSHIP
REALTY, an Oregon company, DEZ
DRAFTING & DESIGN LLC, an Oregon
company; VLADIMIR OZERUGA, an
individual, E & O VENTURES, LLC, an
Oregon company; and SLAVIK
DEZHNYUK, an individual,

Defendants.

Civil No.: 09-CV-952-JE

**DEFENDANT E & O VENTURES,
LLC'S ANSWER AND AFFIRMATIVE
DEFENSES TO PLAINTIFF'S SECOND
AMENDED COMPLAINT**

For Answer to Plaintiff's Second Amended Complaint for Copyright Infringement
and False Designation of Origin ("SAC"), Defendant E & O Ventures, LLC ("E & O")
admits, denies, and alleges as follows:

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**DEFENDANT E & O VENTURES, LLC'S ANSWER AND AFFIRMATIVE
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1.

In answer to ¶ 1 of the SAC, E & O admits that Plaintiff alleges claims under the Copyright and Lanham Acts, but denies that they it has infringed any valid right of Plaintiff. Except as expressly admitted herein, E & O denies the allegations contained in ¶ 1 of the SAC.

2.

E & O admits the allegations in ¶ 2 of the SAC.

3.

In answer to ¶ 3 of the SAC, E & O admits that it is a resident of, or engaged in certain business activities within, the State of Oregon, but denies that it has infringed any valid right of Plaintiff or that it has caused any injury to Plaintiff. Except as expressly admitted herein, E & O denies the allegations contained in ¶ 2 of the SAC.

4.

In answer to ¶ 4 of the SAC, E & O admits that venue is proper in this Court, but denies the remaining allegations contained in ¶ 4.

5.

In answer to ¶ 5 of the SAC, E & O admits that venue is proper in this Court, but denies that the remaining allegations contained in ¶ 5 of the SAC.

6.

E & O is without sufficient information to form an opinion as to the truth or falsity of the matters asserted in ¶ 6 of the SAC and therefore denies the same.

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7.

E & O is without sufficient information to form an opinion as to the truth or falsity of the matters asserted in ¶ 7 of the SAC and therefore denies the same.

8.

E & O admits the allegations in ¶ 8 of the SAC.

9.

E & O admits the allegations in ¶ 9 of the SAC.

10.

E & O is without sufficient information to form a belief as to the truth or falsity of the matters asserted in ¶ 10 of the SAC, and therefore denies the same.

11.

In answer to ¶ 11 of the SAC, E & O admits that Ozeruga resides in Oregon. Except as expressly admitted herein, E & O denies the allegations in ¶ 11 of the SAC.

12.

E & O admits the allegations in ¶ 12 of the SAC.

13.

E & O is without sufficient information to form an opinion as to the truth or falsity of the matters asserted in ¶ 13 of the SAC and therefore denies the same.

14.

E & O re-allege and incorporate by reference the allegations in Paragraphs 1 through 13 above as though fully set forth herein.

15.

E & O denies the allegations in ¶ 15 of the SAC.

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16.

In answer to ¶ 16 of the SAC, E & O admits that a copyright application was filed for a work entitled, “Bella Amica,” and that a copyright certificate was issued for said work. E & O denies that Plaintiff was an active limited liability company at the time the application was filed and further denies that the work identified in the copyright application and registration for the “Bella Amica” architectural design was an original work of authorship, and/or that Plaintiff owns any legally protectable rights to the “Bella Amica” architectural work. Except as expressly admitted herein, E & O denies the allegations in ¶ 16 of the SAC.

17.

In answer to ¶ 17 of the SAC, to the extent the allegations state conclusions of law, no answer is required, and therefore E & O denies the same. E & O further denies that the work identified in the copyright application and registration for the “Bella Amica” architectural design was an original work of authorship, and/or that Plaintiff owns any legally protectable rights to the “Bella Amica” architectural work.

18.

In answer to ¶ 18 of the SAC, E & O states that it lacks sufficient information to admit or deny the allegations in ¶ 18 of the SAC directed to UHD’s alleged involvement in the construction and/or sale of homes located at 8160 N. Haven Avenue, 8166 N. Haven Avenue, or 6628 N. Kerby Ave, but admits that UHD was involved in the construction of the home located at 8247 N. Fiske Avenue. E & O denies that the work identified in the copyright application and registration for the “Bella Amica” architectural design was an original work of authorship, that Plaintiff owns any legally protectable rights to the “Bella Amica,” and/or that UHD infringed upon any legally protectable rights to the “Bella Amica”

architectural work. Except as expressly admitted herein, E & O denies the allegations in ¶ 18 of the SAC.

19.

In answer to ¶ 19 of the SAC, E & O states that the allegations contained therein are not directed to E & O and therefore no answer is required. If an answer is required, E & O states that it lacks sufficient information to admit or deny the allegations in ¶ 19 and therefore denies the same. E & O further denies that the work identified in the copyright application and registration for the “Bella Amica” architectural design was an original work of authorship or that Plaintiff owns any legally protectable rights to the “Bella Amica.” Except as expressly admitted herein, E & O denies the allegations in ¶ 19 of the SAC.

20.

In answer to ¶ 20 of the SAC, E & O states that it lacks sufficient information to admit or deny the allegations in ¶ 20 of the SAC directed to Stewardship’s alleged involvement in the construction and/or sale of homes located at 8160 N. Haven Avenue, 8166 N. Haven Avenue, or 6628 N. Kerby Ave, but admits that Stewardship was involved in the sale of the home located at 8247 N. Fiske Avenue. E & O denies that the work identified in the copyright application and registration for the “Bella Amica” architectural design was an original work of authorship, that Plaintiff owns any legally protectable rights to the “Bella Amica,” and/or that Stewardship infringed, directly or contributarily, upon any legally protectable rights to the “Bella Amica” architectural work. Except as expressly admitted herein, E & O denies the allegations in ¶ 20 of the SAC.

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21.

In answer to the allegations in ¶ 21 of the SAC, E & O admits that at one time it owned the property located at 8247 N. Fiske Ave. in Portland, Oregon, but denies that it presently owns that property.

22.

In answer to ¶ 22 of the SAC, E & O denies that the work identified in the copyright application and registration for the “Bella Amica” architectural design was an original work of authorship, that Plaintiff owns any legally protectable rights to the “Bella Amica,” and/or that E & O infringed, directly or contributarily, upon any legally protectable rights to the “Bella Amica” architectural work. Except as expressly admitted herein, E & O denies the allegations contained in ¶ 22 of the SAC.

23.

In answer to ¶ 23 of the SAC, the allegations contained therein are not directed to E & O and therefore no answer is required. If an answer is required, E & O lacks sufficient information to form a belief as to the truth of the matter asserted and therefore denies the same. E & O denies that the work identified in the copyright application and registration for the “Bella Amica” architectural design was an original work of authorship and/or that Plaintiff owns any legally protectable rights to the “Bella Amica.” Except as expressly admitted herein, E & O denies the allegations in ¶ 23 of the SAC.

24.

In answer to ¶ 24 of the SAC, the allegations contained therein are not directed to E & O and therefore no answer is required. If an answer is required, E & O lacks sufficient information to form a belief as to the truth of the matter asserted and therefore denies the

same. E & O denies that the work identified in the copyright application and registration for the “Bella Amica” architectural design was an original work of authorship, and/or that Plaintiff owns any legally protectable rights to the “Bella Amica.” Except as expressly admitted herein, E & O denies the allegations in ¶ 23 of the SAC.

25.

E & O denies the allegations in ¶ 25 of the SAC.

26.

E & O denies the allegations in ¶ 26 of the SAC.

27.

E & O denies the allegations in ¶ 27 of the SAC.

28.

E & O re-alleges and incorporates by reference the allegations in Paragraphs 1 through 27 above as though fully set forth herein.

29.

In answer to ¶ 29 of the SAC, the allegations contained therein are not directed to E & O and therefore no answer is required. If an answer is required, E & O lacks sufficient information to form a belief as to the truth of the matter asserted and therefore denies the same. Except as expressly admitted herein, E & O denies the allegations in ¶ 29 of the SAC.

30.

In answer to ¶ 30 of the SAC, the allegations contained therein are not directed to E & O and therefore no answer is required. If an answer is required, E & O lacks sufficient information to form a belief as to the truth of the matter asserted and therefore denies the same. Except as expressly admitted herein, E & O denies the allegations in ¶ 30 of the SAC.

31.

In answer to ¶ 31 of the SAC, the allegations contained therein are not directed to E & O and therefore no answer is required. If an answer is required, E & O lacks sufficient information to form a belief as to the truth of the matter asserted and therefore denies the same. Except as expressly admitted herein, E & O denies the allegations in ¶ 31 of the SAC.

32.

E & O denies the allegations in ¶ 32 of the SAC.

33.

E & O denies the allegations in ¶ 33 of the SAC.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

34.

Plaintiff's SAC fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

(Invalid Copyright Registration: Insufficient Original Expression)

35.

Plaintiff's claims are barred because the architectural work that is the subject matter of Plaintiff's claims lacks sufficient original expression to be entitled to protection under the Copyright Act.

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THIRD AFFIRMATIVE DEFENSE

(Invalid Copyright Registration: Public Domain)

36.

Plaintiff is not entitled to prevail on its claims because it is attempting to assert ownership to materials that have long been in the public domain.

FOURTH AFFIRMATIVE DEFENSE

(No Copyright Infringement: No Copying)

37.

To the extent any elements of the asserted work are entitled to copyright protection, which E & O expressly denies, Plaintiff's claims are barred because E & O did not copy the asserted work.

FIFTH AFFIRMATIVE DEFENSE

(Unclean Hands)

38.

To the extent any elements of the asserted work are entitled to copyright protection, which E & O expressly denies, Plaintiff's claims are barred because it comes to this Court with unclean hands.

SIXTH AFFIRMATIVE DEFENSE

(Good Faith)

39.

To the extent any elements of the asserted work are entitled to copyright protection, which E & O expressly denies, Plaintiff's claims are barred because E & O at all times acted in good faith.

SEVENTH AFFIRMATIVE DEFENSE

(No Right to Statutory Damages or Attorneys Fees)

40.

Plaintiff is not entitled to recover statutory damages or attorney's fees.

EIGHTH AFFIRMATIVE DEFENSE

(No Standing)

41.

Plaintiff lacks standing to bring the instant claims.

Wherefore E & O prays for judgment in their favor as follows:

1. Denying and dismissing Plaintiff's Second Amended Complaint against them;
2. Awarding E & O its costs, fees and disbursements herein;
3. Such other relief as the Court deems appropriate.

DATED: February 5, 2010

BULLIVANT HOUSER BAILEY PC

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